



May 5, 2022

VIA ELECTRONIC COURT FILING

The Honorable Margaret B. Seymour

The Honorable Toby J. Heytens

The Honorable Richard Gergel

RE: *Status Update Regarding Settlement by Legislation*
SC NAACP v. Alexander, 3:21-cv-03302-MBS-TJH-RMG

Your Honors,

Plaintiff South Carolina State Conference of the NAACP¹ (“SC NAACP”) has entered a revised agreement to resolve their litigation against South Carolina House of Representatives, Speaker James H. Lucas, Chairman Chris Murphy, and Chairman Wallace H. Jordan, sued in their official capacities, (collectively, “House Defendants”) regarding certain House districts adopted in H. 4493. **Under this agreement, the Settlement Maps will be passed by both chambers of the Legislature, presented to the Governor on or before May 12, 2022, and signed into law on or before May 17, 2022.**

Background

On April 19, 2022, SC NAACP and House Defendants (“the Parties”) reached an agreement in principle to resolve their litigation about the House redistricting plan. As the Court knows, the agreement contemplated the adoption of new redistricting maps in three areas of the state—Richland/Kershaw, Orangeburg, and Dillon/Horry.

At the Court’s request, the Parties then submitted letter-briefs to the Court concerning the propriety of enforcing their agreement through a court-ordered consent decree. ECF 234, 235. Three days later, the Court denied the Parties’ request for a consent decree because the Parties could not satisfy the prerequisites established in *Lawyer v. Dep’t of Justice*, 521 U.S. 567 (1997). ECF 236.

¹Plaintiff Taiwan Scott does not have any claims against Defendants regarding the challenged state House districts and is therefore not a party to the proposed Agreement.

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At the status conference on the following day, the Court signaled that an appropriate way to effectuate the Parties' agreement would be to pass the maps through the ordinary legislative process. *See* Tr. 4/26/22, pp 4:19-20, 19:8-13. The Parties listened.

The Agreement

Today, the SC NAACP entered a binding, nonconfidential agreement ("Agreement") to resolve Counts One and Two of SC NAACP's Second Amended Complaint. *See* Exhibit A.

Under the Agreement, House Defendants shall amend an already existing bill, H.1024,² as soon as practicable so as to include the Settlement Maps in H.1024.³ It is anticipated that H.1024 will pass the Senate and be delivered to the Governor for signature on or before May 12, 2022. Thereafter, the Governor will have until May 17, 2022 to sign and enact H.1024 into law.

In exchange, SC NAACP will voluntarily dismiss Counts One and Two *without prejudice* by filing a stipulation under Fed. R. Civ. P. 15(a)(2) to amend their Complaint to remove Counts One and Two. The Agreement contemplates that if H.1024 is not enacted as agreed upon, House Defendants will provide written consent that there is good cause for SC NAACP to amend their Complaint to re-allege Counts One and Two, or may refile Counts One and Two in a new action.

Under the Agreement, the Parties' deposition notices, document requests, and discovery motions are withdrawn without prejudice and will only commence if Counts One and Two are refiled as contemplated above.

The Agreement has no bearing whatsoever on Counts Three and Four of Plaintiffs' Second Amended Complaint regarding the Congressional redistricting plan.

* * *

SC NAACP is not requesting that the Court take any action on this letter. At present, the Parties are working hard to ensure that their respective obligations under the Agreement are satisfied. With trial looming, counsel simply wanted to ensure that this Court is well informed about the Parties' conduct.

² H. 1024 is a voting bill that has already received three readings in the Senate and, therefore, only requires two legislative days to be amended and passed by both chambers.

³ As of the filing of this letter, the proposed amendment to H.1024 is drafted and the bill is on the House calendar.

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Respectfully,

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/s/ Allen Chaney

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** Motion for admission Pro Hac Vice
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